

REMARKS

In the action of September 3, 2008, the examiner rejected claims 1, 2, 4 and 8 under 35 U.S.C. § 102 as anticipated by Ramirez; and rejected claims 1, 2 and 4 under 35 U.S.C. § 102 as anticipated by Kraals. The examiner allowed claims 5-7, and 12-20, and indicated that claims 9-11 contain allowable subject matter.

In this amendment, applicant has further clarified the mounting element structure (elements 42 and 44) to define over both Ramirez and Kraals. Note with respect to Ramirez that the mounting element 38 is an axle upon which the pressing member 37 is moved. Fluid is dispensed by moving wheel 37. The mounting element 38 is not accessible to the user (see Figure 9). Claim 1 has been amended to specify that the opposing ends of the pressing member are accessible to the user so that the pressing member is moveable by user action on the mounting elements. This is a very different structure and action than Ramirez. Claim 1 is thus patentable over Ramirez.

Note with respect to Kraals that claim 1 has been amended to specify that the mounting elements 42, 44 extend outwardly away from the cutout portion, sufficiently that the pressing member is moveable by user action directly on the mounting elements. The elements of Kraals, as pointed out by the examiner, are slideable on the edges 12 and 14 of the cutout portion. They are actually crimped against the sides of the cutout portion instead of extending away therefrom (Figure 4). In applicant's claimed arrangement, the mounting elements provide the primary (only) means for moving the pressing member along the cutout portion, while in Kraals, the pressing member is moved along the cutout portion by action on portion 46 of the pressing member, as clearly set forth at column 3, lines 18-20. Edge portions 42 and 44 are used for slideable engagement with the cutout portion, to keep it on track, as opposed to a suitable means to permit the user to move the pressing member along the cutout portion to dispense toothpaste. Amended claim 1 clarifies this difference in structure and function, and hence is allowable over Kraals.

In view of the above, claim 1 and claims dependent thereon are allowable. Claims 5-7 and 12-20 have been previously allowed.

Respectfully submitted,

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